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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re N.A., a Person Coming Under
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

N.A.,

Defendant and Appellant.

B289824, B291251

(Los Angeles County
Super. Ct. No. PJ51135)

APPEAL from orders of the Superior Court of Los Angeles County, Morton Rochman, Judge. Affirmed.

Gerald Peters, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Shawn McGahey Webb and Shezad H. Thakor, Deputy Attorneys General, for Plaintiff and Respondent.

This is a consolidated appeal from (1) the juvenile court's order sustaining a March 7, 2018 petition alleging appellant N.A. possessed burglary tools in violation of Penal Code section 466,¹ a misdemeanor (B289824), and (2) the juvenile court's order sustaining a March 15, 2018 petition alleging N.A. gave false information to a police officer (§ 148.9, subd. (a)), and committed battery (§ 242) and petty theft (§ 484, subd. (a)), all misdemeanors (B291251). The court found that appellant was a person described by Welfare and Institutions Code section 602, adjudged appellant to be a ward of the court, and placed appellant in an open or closed facility for a period not to exceed 16 months.

Appellant contends the juvenile court erred in setting a maximum term of confinement and abused its discretion in imposing probation conditions barring him from (1) possessing firearms until he is 30 years old, (2) possessing deadly or dangerous weapons while on probation, and (3) entering school grounds except under specified conditions. He further contends two of the conditions infringe on his constitutional rights.

The juvenile court was required to set the maximum period of confinement. The firearm and school probation conditions relate to conduct which is itself criminal and so the conditions are valid. Assuming appellant has not forfeited his claim concerning the third condition, involving deadly or dangerous weapons, that condition involves conduct which is reasonably related to future criminality and so is proper. Appellant has forfeited his claims

¹ Further undesignated statutory references are to the Penal Code.

that the firearm and weapons probation conditions infringe on his constitutional rights. We affirm the juvenile court's orders.

BACKGROUND

The March 7, 2018 petition involved a screwdriver and scissors discovered by Burbank Police Department officers when they conducted a traffic stop of appellant as he rode his bicycle on the street without any front or rear lights, carrying what appeared to be a case of beer. The screwdriver had wear marks which indicated to Officer Pietro Pira that it was used as a prying tool, not to turn screws. Officer Pira and his partner took appellant, who was on probation, to the police station. After being read his *Miranda*² rights, appellant stated the scissors were used to pry up the windowsills of vehicles and the screwdriver was used to defeat locks and ignitions.

The March 15 petition involved an incident where appellant consumed candy and beverages in a supermarket and left the store without paying for them. When the supermarket's loss prevention officer Jesus Sanchez approached appellant outside the store, appellant punched him in the eye. The two scuffled and Sanchez was eventually able to handcuff appellant. Los Angeles Police Department Officer Antonio Chavez came to the scene to investigate. Appellant gave him what turned out to be a false name and date of birth.

DISCUSSION

1. The trial court properly set the maximum term of confinement.

Appellant contends the juvenile court erred in setting a maximum term of confinement for his offenses because the court

² *Miranda v. Arizona* (1966) 384 U.S. 436.

did not commit him to the Division of Juvenile Facilities. The court did not err.

“When a minor is removed from the physical custody of his parent or custodian as a result of criminal violations sustained under Welfare and Institutions Code section 602, the court must specify the maximum term of imprisonment that could be imposed upon an adult convicted of the same offense or offenses.” (*In re Matthew A.* (2008) 165 Cal.App.4th 537, 541.) Welfare and Institutions Code section 726, subdivision (d)(1) specifically provides: “If the minor is removed from the physical custody of his or her parent or guardian as the result of an order of wardship made pursuant to Section 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court.”

Here, the court removed appellant from his parents’ custody, ordered that he remain a ward of the court pursuant to Welfare and Institutions Code section 602, and placed appellant in an open or closed facility. Thus, Welfare and Institutions Code section 726, subdivision (d)(1) required the court to set a maximum term of confinement.

Appellant’s reliance on Welfare and Institutions Code section 731 to show error is misplaced. That section details the limitations on a juvenile’s maximum term of confinement in the Division of Juvenile Facilities. Nothing in the section discusses the circumstances under which a juvenile court may or should set a maximum term of confinement for a juvenile.

2. *The probation condition restricting appellant's firearm possession reflects existing law and so is valid.*

Appellant contends the juvenile court abused its discretion in imposing probation condition number 41, which states: "Minor is prohibited from owning, having possession or custody or control of any firearm until the age of 30 years." This restriction is mandated by statute, and the juvenile court did not abuse its discretion in imposing a condition making clear the statutory restriction applied to appellant's circumstances.

"Generally, '[a] condition of probation will not be held invalid unless it "(1) has no relationship to the crime of which the offender was convicted, (2) relates to conduct which is not in itself criminal, and (3) requires or forbids conduct which is not reasonably related to future criminality" [Citation.]' ([*People v. Lent* (1975) 15 Cal.3d 481, 486 (*Lent*)].) This test is conjunctive—all three prongs must be satisfied before a reviewing court will invalidate a probation term. [Citations.]" (*People v. Olguin* (2008) 45 Cal.4th 375, 379–380; see *In re D.G.* (2010) 187 Cal.App.4th 47, 52 [juvenile probation conditions are judged by the same standard].)

Here, section 29820 provides any person who has committed an offense specified in section 29805 and who is adjudged a ward of the juvenile court within the meaning of Welfare and Institutions Code section 602 because of that offense "shall not own, or have in possession or under custody or control, any firearm until the age of 30 years." (§ 29820, subd. (b).) The court sustained the section 242 battery allegation in the March 15 petition. Section 242 is among the offenses listed in section 29805. Thus, the juvenile court was forbidding conduct which section 29820 also forbade as to appellant. The second prong of

the *Lent* test for invalidating a probation condition was not satisfied, and so appellant's claim fails.

To the extent appellant claims this probation condition infringes on his constitutional rights, he has forfeited such a claim. Appellant merely states the general proposition that a probation condition that imposes limitations on a person's constitutional rights must be closely tailored to the purpose of the condition. He does not identify the specific rights he claims are being infringed, or explain how the condition should or could be more narrowly tailored. "In order to demonstrate error, an appellant must supply the reviewing court with some cogent argument supported by legal analysis and citation to the record." (*City of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266, 286-287.) We are not required to make arguments for appellant "nor are we obliged to speculate about which issues counsel intend[ed] to raise." (*Opdyk v. California Horse Racing Bd.* (1995) 34 Cal.App.4th 1826, 1830-1831, fn. 4.)

3. Appellant has forfeited his objection to restrictions on his right to possess deadly or dangerous weapons; if not forfeited the objection has no merit.

Appellant contends that his current offenses did not involve the use of a firearm or a deadly or dangerous weapon, and so the juvenile court abused its discretion in imposing standard probation condition number 14, which provides: "You must not have, possess, or act like you possess a gun or knife, or possess any other object you know is a dangerous or deadly weapon. You also cannot have or possess anything you know that looks like a gun. You must not be around anyone you know to be unlawfully armed."

Appellant did not object to this condition in the juvenile court, and so he has forfeited it. (*In re Sheena K.* (2007) 40 Cal.4th 875, 883, fn. 4.) He contends his claim involves issues of law alone and so may be considered on appeal even without an objection. (*Id.* at p. 887.) We do not agree. Resolution of appellant's claim involves consideration of the factual circumstances of appellant's two current cases, and his past behavior to determine if the probation condition was reasonable under the three-prong test set forth in *Lent, supra*, 15 Cal.3d 481.

Assuming for the sake of argument this objection has not been forfeited, based on this record we find no abuse of discretion in the juvenile court's decision to impose the condition. By statute, appellant is not permitted to possess a firearm due to his battery offense and so the portion of this condition barring gun possession is valid. Appellant's probation report states that in the past appellant was found in possession of a deadly or dangerous weapon, a razor blade, in violation of section 626.10, subdivision (a)(1). Battery is a violent offense, and it was reasonable for the court to conclude that if appellant were allowed to possess a dangerous and deadly weapon in the future, he would present more of a threat to public safety. Thus, the condition is reasonably related to future criminality. (See *People v. Forrest* (2015) 237 Cal.App.4th 1074, 1083 [where a defendant "has been convicted of a violent crime, imposition of a strict condition of probation prohibiting ownership or possession of weapons is essential to promote public safety"].) "[E]ven if a condition of probation has no relationship to the crime of which a defendant was convicted and involves conduct that is not itself criminal, the condition is valid as long as the condition is

reasonably related to preventing future criminality.” (*People v. Olguin*, *supra*, 45 Cal.4th at pp. 379–380.)

To the extent appellant claims this probation condition infringes on his constitutional rights, this claim is doubly forfeited. As he did with probation condition number 41, appellant merely states the general proposition that a probation condition that imposes limitations on a person’s constitutional rights must be closely tailored to the purpose of the condition. He does not identify the specific rights he claims are being infringed, or explain how the condition should or could be more narrowly tailored. For the reasons set forth in section 2, *ante*, we do not consider this claim. (See *City of Santa Maria v. Adam*, *supra*, 211 Cal.App.4th at pp. 286-287; *Opdyk v. California Horse Racing Bd.*, *supra*, 34 Cal.App.4th at pp. 1830-1831, fn. 4.)

4. *The probation condition limiting appellant’s access to school grounds reflects existing law and so is valid.*

Appellant contends his current offenses did not take place on school grounds, and so the juvenile court abused its discretion in imposing standard probation condition number 11, which provides: “You must not be on the grounds of a school unless enrolled, attending classes, participating in school programs or with parent/caretaker.” He further contends the prohibition violates his federal constitutional right to travel.

Appellant did not object to this condition in the juvenile court, but he contends his claims involve issues of law alone and so may be considered on appeal without an objection. (See *In re Sheena K.*, *supra*, 40 Cal.4th at p. 887.) We agree in part.

Appellant acknowledges that state law limits the access of non-students to school grounds, and he is subject to such limitations. Section 627.2 provides: “No outsider shall enter or remain on school grounds during school hours without having registered with the principal or designee, except to proceed expeditiously to the office of the principal or designee for the purpose of registering.” Appellant contends, however, that the law only restricts an outsider’s access to school grounds during school hours, and so the probation condition, which is not limited to school hours, is overly broad as to him.

This aspect of appellant’s claim would require consideration of facts not in the record on appeal. Appellant has not shown, for example, that it is permissible for anyone other than employees to be on school grounds during evenings, weekends or school vacations: the school and its grounds might be entirely closed and inaccessible during such time and entry even by students or parents might constitute a trespass. Accordingly this portion of appellant’s claim is forfeited. (*In re R.S.*, *supra*, 11 Cal.App.5th at p. 243.)

Appellant also contends the condition is impermissibly vague because it does not contain a knowledge requirement. He further contends the condition could be “accidentally” violated if his ordinary travels took him onto a school campus, and so it impermissibly infringes on his constitutional right to travel. Section 627.6 requires every public school to post a sign at its entrance(s) specifying the hours during which registration is required and specifying the route to take to the office where outsiders must register. Thus, an “accidental” or unknowing violation is not possible.

On the record before us, the probation condition simply limits conduct which is already restricted by law. Thus, the condition is valid. (See *In re D.G.*, *supra*, 187 Cal.App.4th at p. 56 [“A probation condition generally consistent with Penal Code section 627.2 would . . . be justifiable under *Lent* as proscribing otherwise criminal conduct”].)

DISPOSITION

The juvenile court’s orders are affirmed.

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STRATTON, J.

We concur:

BIGELOW, P. J.

WILEY, J.